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Attorney for Defendant Ward Greene

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

TIMOTHY ROTE,
Plaintiff,

v.

OREGON JUDICIAL DEPARTMENT,
OREGON STATE BAR
PROFESSIONAL LIABILITY FUND,
THE HON. ANN LININGER, THE
HON. ALISON EMERSON, THE HON.
JOSEPHINE MOONEY, THE HON.
JACQUELINE KAMINS, THE HON.
KATHIE STEELE, CAROL BERNICK
and MEGAN LIVERMORE (in their
official capacities as CEO of the
OSBPLF), MICHAEL WISE, JEFFREY
EDELSON, DESCHUTES COUNTY
SHERIFF'S DEPARTMENT,
MATTHEW YIUM, NATHAN
STEELE, WARD GREENE,
ANTHONY ALBERTAZZI and JOHN
DOES (1-5), et al.

Defendants.

Case No.: 3:22-cv-00985-SI

**DEFENDANT WARD GREENE'S
MOTION FOR SUMMARY
JUDGMENT**

FRCP 56

Oral Argument Requested

L.R. 7.1 CERTIFICATION

Defendant Ward Greene certifies pursuant to L.R. 7-1(a)(1) that his attorney conferred with Mr. Rote about the subject of this motion, and they were not able to resolve the issue.

MOTION

Pursuant to Fed. R. Civ. P. 56, Defendant Ward Greene moves for summary judgment on the grounds that there are no material issues of fact and Defendant Greene is entitled to judgment as a matter of law based upon the MUTUAL RELEASE AND SETTLEMENT AGREEMENT executed by Mr. Rote on June 23, 2021.

This motion is supported by the Memorandum of Law and the Declaration of Ward Greene.

LEGAL MEMORANDUM OF LAW

Timothy Rote and his wife Tanya Rote sued Mr. Greene's former employer, Williams, Kastner & Gibbs, PLLC in Clackamas County Circuit Court Case No. 19CV01547. Mr. Rote's Third Party Complaint alleged claims of malicious prosecution and intentional infliction of emotional distress. Williams Kastner filed a special motion to strike under ORS 30.150 et seq. That motion was granted by Clackamas County Circuit Court Judge Ann Lininger. The Order granting defendant Williams Kastner's special motion to strike was entered on February 27, 2020.

Williams Kastner filed a petition for attorneys' fees pursuant to ORS 30.150, et. seq. Mr. Rote filed objections. Those objections were overruled. A judgment for attorneys' fees in the amount of \$20,966 was entered September 18, 2020. Mr. Rote and his wife appealed that judgment to the Oregon Court of Appeals. See attached Notice of Appeal. (Exh. B).

The trial court judgment created a lien on real property owned by Mr. Rote. In order to convey that property, Mr. Rote had to satisfy the judgment lien. Mr. Rote offered to dismiss the appeal with prejudice and execute a Mutual Release of All Claims in exchange for Williams Kastner satisfying the judgment for attorneys' fees. Williams Kastner filed a Satisfaction of Judgment on June 29, 2021.

As authenticated by the Declaration of James M. Callahan, Exhibit A, is a true copy of the Mutual Release and Settlement Agreement executed by Mr. Rote and his wife in June 2021.

That agreement provides in pertinent part:

”Paragraph 2. Mutual Release of All Claims.

For and in consideration of the Mutual Releases of the Parties, as contemplated hereby, the other obligations contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which hereby is acknowledged by the Parties, the Parties hereby mutually release, covenant not to sue, and forever discharge each other and each of their respective businesses, entities owned or controlled by a Party, current and former representatives, agents, employees, general partners, limited partners, heirs, successors, and assigns, from any and all Claims (as that term is defined below) arising out of or related to any act or omission of a Party occurring prior to execution of this Agreement.” Exh. A, page 1.
Emphasis added.

As evidenced by the Declaration of Ward Greene, at the time this Mutual Release and Settlement Agreement was executed by Mr. Rote, Mr. Greene was an employee of Williams Kastner.

Mr. Greene is entitled to summary judgment based on the Mutual Release and Settlement Agreement signed by Mr. Rote in June 2021.

DATED: August 9, 2022

CALLAHAN & SHEARS, P.C.

s/ James M. Callahan
James M. Callahan, OSB #780232
jcallahan@callahanandshears.com
Attorney for Defendant Ward Greene

CERTIFICATE OF SERVICE

I hereby certify that I served the following **Defendant Ward Greene's Motion for Summary Judgment** on the following named person(s) on the date indicated below, by:

☒ [X] United States Mail with postage prepaid; and
☐ [] electronically, utilizing OJD File & Serve, if applicable;
☐ [] by hand delivery;
☐ [] by facsimile transmission;
☒ [X] by electronic transmission, via Outlook;
☐ [] by overnight delivery

to said person(s) a true copy thereof, contained in a sealed envelope, addressed to said person(s) at their last known address(es) indicated below. The same was deposited in the U.S. Post Office at Portland, Oregon:

Timothy Rote
7427 SW Coho Ct. #200
Tualatin, OR 97062
timothy.rote@gmail.com
Pro Se Plaintiff

DATED: August 9, 2022

s/ James M. Callahan
James M. Callahan, OSB No. #780232
Email: jcallahan@callahanandshears.com
Attorney for Defendant Ward Greene